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EXAMINER

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
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2168

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,926

Applicant(s)

FOSTER ET AL.

Examiner

HUNG Q. PHAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 10-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/27/2005 has been entered.

Response to Arguments

- Applicants' arguments with respect to the objection of the specification, the rejection of claims 1, 5, 27 and 28 under 35 U.S.C. § 112, first and second paragraph, have been fully considered and are persuasive. The objection of the specification and rejection of claims 1, 5, 27 and 28 under 35 U.S.C. § 112, first and second paragraph, have been withdrawn.
- Applicant's arguments with respect to claims 1 and 27 under 35 U.S.C. § 102(e) and/or 103(a) have been considered but are moot in view of the new ground(s) of rejection.

Duplicated Claims, Warning

Applicant is advised that should claim 27 be found allowable, claim 1 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Objections

Claim 27 is objected to because of the following informalities: *at least one repository server* at line 7 (As recited at line 4; the clause *at least one repository server* is already used to associate with non-legacy data source, and the clause *at least one repository server* at line 7 should be changed to indicate two different *repository server* as further recited at lines 17-18 *said repository servers*). Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 and 27-34, especially claims 1 and 27, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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As in MPEP 2106 (IV)(B)(2)(b)(ii):

For such subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. See *Alappat*, 33 F.3d at 1543, 31 USPQ2d at 1556-57 (quoting *Diamond v. Diehr*, 450 U.S. at 192, 209 USPQ at 10). See also *Alappat* 33 F.3d at 1569, 31 USPQ2d at 1578-79 (Newman, J., concurring) ("unpatentability of the principle does not defeat patentability of its practical applications") (citing *O'Reilly v. Morse*, 56 U.S. (15 How.) at 114-19). A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result; i.e., the method recites a step or act of producing something that is concrete, tangible and useful. See *AT & T*, 172 F.3d at 1358, 50 USPQ2d at 1452. Likewise, a machine claim is statutory when the machine, as claimed, produces a concrete, tangible and useful result (as in *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601) and/or when a specific machine is being claimed (as in *Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557 (**en banc*)). For example, a computer process that simply calculates a mathematical algorithm that models noise is nonstatutory. However, a claimed process for digitally filtering noise employing the mathematical algorithm is statutory.

MPEP 2106 (IV)(B)(2)(a):

Products may be either machines, manufactures, or compositions of matter.

A *machine* is "a concrete thing, consisting of parts or of certain devices and combinations of devices." *Burr v. Duryee*, 68 U.S. (1 Wall.) 531, 570 (1863).

...

If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760. Office personnel must treat each claim as a whole. The mere fact that a hardware element is recited in a claim does not necessarily limit the claim to a specific machine or manufacture. Cf. *In re Iwahashi*, 888 F.2d 1370, 1374-75, 12 USPQ2d 1908, 1911-12 (Fed. Cir. 1989), cited with approval in *Alappat*, 33 F.3d at 1544 n.24, 31 USPQ2d at 1558 n.24.

In stead of a physical structure in terms of its hardware or hardware and software combination as set forth in MPEP 2106 (IV)(B)(2)(a), claims 1 and 27 define a system comprises software *per se*. Additionally, claims 1 and 27 do not produce a tangible and useful result that meets the requirement as recited in their preamble, e.g., *a computer implemented collaboration system configured to integrate legacy system components*.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 7, 8, 27, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namikata et al. [USP 5,996,003] in view of Chang et al. [USP 6,308,178 B1].

Regarding claim 1, Namikata teaches a computer implemented collaboration system comprising:

a data management tier including data sources (As shown in FIG. 1, the TRANSMITTING SIDE comprises INPUT UNIT 2, DOCUMENT STORING UNIT 3. The RECEIVING

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SIDE comprises RECEIVING UNIT 9 and STORING UNIT 10 (Col. 4, Lines 28-29 and 62-64). FIG. 2 shows hardware configuration of a computer. The computer is either a transmitting or receiving computer as shown in FIG. 1 and comprising INPUT UNIT 2, RECEIVING UNIT 9, DOCUMENT STORING UNIT 3 and STORING UNIT 10 (Col. 6, Lines 48-50). FIG. 3 shows a plurality of computers that manage information concerning the documents to be shared in a conference (Col. 6, Lines 51-66). As seen, the combination of INPUT UNIT 2, RECEIVING UNIT 9, DOCUMENT STORING UNIT 3 and STORING UNIT 10 is *a data management tier* that includes DOCUMENT STORING UNIT 3 and STORING UNIT 10 as *data sources*);

a repository tier including repository servers, each said repository server being associated with one of said data sources (As discussed above with respect to FIG. 2, a computer is either a transmitting or receiving computer as shown in FIG. 1. As further disclosed by Namikata at Col. 4, Lines 30-32 and 64-66, DOCUMENT SELECTING UNIT 4 selects any conference document in DOCUMENT STORING UNIT 3 and DOCUMENT LIST DISPLAY UNIT 11 list and displays conference documents stored in STORING UNIT 10. As seen, DOCUMENT SELECTING UNIT 4 and DOCUMENT LIST DISPLAY UNIT 11 constitute *a repository tier including repository servers, e.g., DOCUMENT SELECTING UNIT 4 and DOCUMENT LIST DISPLAY UNIT 11, each said repository server being associated with one of said data sources, e.g., DOCUMENT SELECTING UNIT 4 is associated with DOCUMENT STORING UNIT 3, and DOCUMENT LIST DISPLAY UNIT 11 is associated with*

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STORING UNIT 10), *said repository servers* e.g., DOCUMENT SELECTING UNIT 4 and DOCUMENT LIST DISPLAY UNIT 11, *being enabled for*¹

accessing data items within their respective associated said data sources (Col. 4, Lines 30-32 and 64-66) *using access methods native to their respective associated said data sources* (Col. 4, Lines 38-44 and from Col. 4, Line 66 to Col. 5, Line 3) *to create at least one document including data items selected from their respective associated data sources* (Col. 4, Lines 30-32, and 36-37),

said at least one document being associable with at least one conference accessible to a plurality of participants (Col. 4, Lines 52-60);

*a user interface tier including at least one client tool enabled for*¹ *displaying the data items within data sources on a user terminal connectable with said computer implemented collaboration system* (FIG. 1, DOCUMENT DISPLAY UNIT 13, Col. 5, Lines 30-35);

a services tier including at least one data channel server associated with said at least one document, said at least one data channel server being created when said at least one document is associated with said at least one conference (FIG. 5D, TWO-LAYER STRUCTURE, Col. 5, Lines 36-41),

said at least one data channel server providing an interface between said repository servers and said at least one client tool (TWO-LAYER STRUCTURE is an interface between DOCUMENT LIST DISPLAY UNIT 11 and DOCUMENT DISPLAY UNIT 13 (Col. 5, Lines 26-50)); and

¹ As set forth in MPEP 2111.04:

- (A) "adapted to" or "adapted for" clauses;
- (B) "wherein" clauses; and
- (C) "whereby" clauses.

The determination of whether each of these clauses is a limitation in a claim depends on the specific facts of the case. In *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a "whereby" clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention." *Id.* However, the court noted (quoting *Minton v. Nat'l Ass'n of Securities Dealers, Inc.*, 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)) that a "whereby" clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited." *Id.*<

Examiner respectfully suggests applicants replacing the "enabled for", "available for", "for use in" clause by a positive statement that discloses the claimed invention.

at least one extended property associated with each data item within data sources, said at least one extended property being maintained within said at least one data channel server and available for² display by said at least one client tool only within said at least one conference with which said at least one document is associated (FIG. 5A, telepointer is an extended property displayed by DOCUMENT DISPLAY UNIT 13, and maintained by TWO-LAYER STRUCTURE, Col. 8, Lines 11-56; as in FIG. 9A is the association of extended property with each data item).

The missing of Namikata is the claimed *at least one of the data sources being a legacy data source*, and the configuration of the system *to integrate legacy system components*.

Chang teaches a system for integrating data among heterogeneous source application and destination applications (Chang, Abstract). As shown in FIG. 1, a plurality of data sources includes a legacy database are integrated then delivered to destination applications using application programming interface (Cheng, Col. 3, Lines 59-65). Destination application is any database application (Cheng, Col. 4, Lines 1-4). As disclosed by Namikata, INPUT UNIT 2 is an application for inputting data to create conference document (Col. 4, Lines 23-27), and a data source is a must for INPUT UNIT 2.

By using the API as taught by Cheng, a plurality of data sources includes a legacy database are integrated and inputted via INPUT UNIT 2, and data from a legacy database could be used for conferencing.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to use the Cheng API for integrating legacy system components

² See Footnote 1.

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include a legacy data source in order to provide data including legacy data to the system.

Regarding claim 27, Namikata teaches a computer implemented collaboration system comprising:

at least one repository server associated with at least one non-legacy data source (As shown in FIG. 1, the TRANSMITTING SIDE comprises INPUT UNIT 2, DOCUMENT STORING UNIT 3. As seen, INPUT UNIT 2 is *at least one repository server associated with DOCUMENT STORING UNIT 3 as at least one non-legacy data source*) and *enabled for accessing data items within said at least one non-legacy data source using access methods native to said at least one non-legacy data source* (Col. 4, Lines 30-32 and 38-44);

at least one document server providing at least one interface for creating a plurality of documents (Col. 4, Lines 30-32 and 36-37, DOCUMENT SELECTING UNIT 4), *each document representing selected data items within at least one said at least one non-legacy data source and at least one legacy data source* (Col. 4, Lines 36-37), *each document being associable with at least one conference* (Col. 4, Lines 52-60);

at least one client tool enabled for³ displaying the data items represented by each document in client tool interfaces displayable on at least one user terminal connectable with said computer implanted collaboration system (FIG. 1, DOCUMENT DISPLAY UNIT 13, Col. 5, Lines 30-35);

at least one data channel server providing an interface between said repository server and said at least one client tool (TWO-LAYER STRUCTURE is an interface between DOCUMENT LIST DISPLAY UNIT 11 and DOCUMENT DISPLAY UNIT 13 (Col. 5, Lines 26-50));

said at least one data channel server being created upon association of a document with a conference (FIG. 5D, TWO-LAYER STRUCTURE, Col. 5, Lines 36-41),

and further enable for⁴ maintaining an instance of at least one extended property associated with each data item represented in a document, wherein the extended properties are available for⁵ display by said at least one client tool only within a conference with which a particular document is associated (FIG. 5A, telepointer is an extended property displayed by DOCUMENT DISPLAY UNIT 13, and maintained by TWO-LAYER STRUCTURE, Col. 8, Lines 11-56; as in FIG. 9A is the association of extended property with each data item).

The missing of Namikata is the claimed *at least one repository server associated with at least one legacy data source and enabled for⁶ accessing data items within said at least one legacy data source using access method native to said at least one legacy data source, and the configuration of the system to integrate legacy system components.*

Chang teaches a system for integrating data among heterogeneous source application and destination applications (Chang, Abstract). As shown in FIG. 1, a plurality of data sources includes a *legacy data source* are integrated then delivered to destination applications using API as *at least one repository server* (Cheng, Col. 3, Lines 59-65). Destination application is any database application (Cheng, Col. 4, Lines 1-4). The API is *enabled for accessing data items within said at least one legacy data source using access method native to said at least one legacy data source* (Col. 7, Lines 42-46). As disclosed by Namikata, INPUT

³ See Footnote 1.

⁴ See Footnote 1.

⁵ See Footnote 1.

⁶ See Footnote 1.

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UNIT 2 is an application for inputting data to create conference document (Col. 4, Lines 23-27), and a data source is a must for INPUT UNIT 2.

By using the API as taught by Cheng, a plurality of data sources includes a legacy database are integrated and inputted via INPUT UNIT 2, and data from a legacy database could be used for conferencing.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to use the Cheng API for integrating legacy system components include a legacy data source in order to provide data including legacy data to the system.

Regarding claims 2 and 31, Namikata and Chang, in combination, teach all of the claimed subject matter as discussed above with respect to claims 1 and 27, Namikata further discloses *at least one extended property comprises one of a visualization property and a control property for use⁷ in displaying the data items with said at least one client tool* (FIG. 5A, POINTER ON/OFF, or SYNC ON/OFF).

Regarding claim 3, Namikata and Chang, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, Namikata further discloses *a plurality of client tools enabled for⁸ displaying the data items within said at least one data source* (FIG. 5B).

⁷ See Footnote 1.

⁸ See Footnote 1.

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Regarding claim 7, Namikata and Chang, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, Namikata further discloses *a conference manager client tool enabled for⁹ managing communication between multiple user terminals connectable with said computer implemented collaboration system* (FIG. 1, TRANSMITTING UNIT 5).

Regarding claims 8 and 33, Namikata and Chang, in combination, teach all of the claimed subject matter as discussed above with respect to claims 1 and 27, Namikata further discloses *at least one extended property is maintained in said at least one data channel server in a directed a-cyclic graphical form* (FIG. 9A-B).

Claims 5, 6 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namikata et al. [USP 5,996,003] and Chang et al. [USP 6,308,178 B1] as applied to claims 1 and 27, and further in view of Skarbo et al. [USP 6,317,777 B1].

Regarding claims 5 and 28, Namikata and Chang, in combination, teach all of the claimed subject matter as discussed above with respect to claims 1 and 27, Namikata further discloses *a library server providing an interface between said query viewing client tool and said at least one repository server* (Namikata, FIG. 1). The missing of Namikata and Chang is *a query viewing client tool enabled for¹⁰ use in constructing queries for selecting data from said at least one data source meeting particular criteria; a library server providing an interface between said query viewing client application*

⁹ See Footnote 1.

and said at least one repository server (Skarbo, FIG. 1B). Skarbo teaches a document-collaboration videoconferencing system between a first and a second conference attendee (Abstract). Skarbo further discloses *a query viewing client tool enabled for use in constructing queries for selecting data from said at least one data source meeting particular criteria* (Skarbo, FIG. 3). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the Namikata and Chang system by including the technique of constructing queries as taught by Skarbo in order to search for a particular document for the conference.

Regarding claim 6, Namikata, Chang and Skarbo, in combination, teach all of the claimed subject matter as discussed above with respect to claim 5, Skarbo further discloses *query viewing client tool is enabled for¹¹ use in constructing at least one of a standing query and a static query* (Skarbo, FIG. 3).

Regarding claim 29, Namikata, Chang and Skarbo, in combination, teach all of the claimed subject matter as discussed above with respect to claim 28, Namikata further discloses *query viewing client tool is enabled for¹² use in constructing at least one of a standing query and a static query* (Namikata, FIG. 5B), *wherein a document representing data items selected as a result of a standing query is updated when the selected data items change* (Namikata, Col. 18, Lines 52-61).

¹⁰ See Footnote 1.

¹¹ See Footnote 1.

¹² See Footnote 1.

Regarding claim 30, Namikata, Chang and Skarbo, in combination, teach all of the claimed subject matter as discussed above with respect to claim 27, Namikata further discloses *a conference manager client tool enabled for¹³ managing communication between multiple user terminals connectable with said computer implemented collaboration system , each said document being placed within a conference managed by said at least one conference manager client tool* (FIG. 1, TRANSMITTING UNIT 5).

Claims 4 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namikata et al. [USP 5,996,003] and Chang et al. [USP 6,308,178 B1] as applied to claims 3 and 27, and further in view of Simonoff [USP 6,463,460 B1].

Regarding claims 4 and 32, Namikata and Chang, in combination, teach all of the claimed subject matter as discussed above with respect to claims 3 and 27, but fail to disclose *client tools include a list viewer, a map viewer, and an X-Y data plotter*. Simonoff teaches a *client tool include a list viewer, a map viewer, and an X-Y data plotter* (Simonoff, FIG. 4). It would have been obvious for one of ordinary skill in the art at the time the invention was made to include a list viewer, map viewer and X-Y data plotter as taught by Simonoff in order to visualize data for a conference.

¹³ See Footnote 1.

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Claims 9 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namikata et al. [USP 5,996,003] and Chang et al. [USP 6,308,178 B1] as applied to claims 1 and 27, and further in view of Goldberg et al. [USP 6,430,556 B1].

Regarding claims 9 and 34, Namikata and Chang, in combination, teach all of the claimed subject matter as discussed above with respect to claims 1 and 27, but fail to disclose *at least one repository server, said at least one client tool, and said at least one data channel server are implemented within a CORBA framework*. Goldberg teaches CORBA for implementing query tool (Goldberg, FIG. 4). It would have been obvious for one of ordinary skill in the art at the time the invention was made to use CORBA to implement query tool in order to query distributed object over the network.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM T. VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HUNG Q PHAM
Examiner
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March 18, 2006